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MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION

New Delhi, the 21st December 1962

THE ENEMY PROPERTY (CUSTODY AND REGISTRATION) ORDER, 1962

G.S.R. 1765.—In exercise of the powers conferred by sub-rule (1) of rule 133-V of the Defence of India Rules, 1962, the Central Government hereby makes the following Order, namely:—

1. **Short title.**—This Order may be called the Enemy Property (Custody and Registration) Order, 1962.

2. **Definitions.**—In this Order, unless the context otherwise requires,—

- (i) "Custodian" means the Custodian of Enemy Property appointed under rule 133-V of the Defence of India Rules, 1962, and includes any Deputy or Assistant Custodian of Enemy Property authorised by the said Custodian in respect of all or any of the provisions of this Order;
- (ii) the expressions "enemy subject", "enemy firm", "enemy property" and "securities" shall have the meanings respectively assigned to them by rule 133-I of the Defence of India Rules, 1962;
- (iii) "enemy" means any person whose property is for the time being vested in the Custodian by an order made under sub-rule (1) of rule 133-V of the Defence of India Rules, 1962;
- (iv) "Form" means a Form appended to this Order;
- (v) 'internee' 'parole centre' and 'person on parole' shall have the meanings respectively assigned to them in the Control of Internees' Property Order, 1962.
- (vi) "person" includes any company or association or body of individuals whether incorporated or not.

3. **Payment to Custodian of money otherwise payable to an enemy.**—(1) Any sum payable by way of dividend, interest, share of profits or otherwise, to or for the benefit of an enemy, shall, unless otherwise ordered by the Central Government, be paid by the person by whom such sum would have been payable, but for the provisions of Part XIV-B of the Defence of India Rules, 1962, to the Custodian or such person as may be authorised by him in this behalf, and shall be held by such Custodian or other person subject to the provisions of this Order.

(2) In cases in which money would, but for the provisions of Part XIV-B of the Defence of India Rules, 1962, be payable in a foreign currency to or for the benefit of a person who is an enemy (other than cases in which money is payable under a contract in which provision is made for a specified rate of exchange), the payment shall be made to the Custodian of Enemy Property in Rupee currency at the middle official rate of exchange fixed by the Reserve Bank of India on the date on which the payment became due to that person.

(3) The Custodian shall, subject to the provisions of the next succeeding paragraph and except in so far as the Central Government either generally or in any specific case may otherwise direct or order, hold any money paid to him under this Order and any property vested in him by an order made under sub-rule (1) of rule 133-V of the Defence of India Rules, 1962, until the Proclamation of Emergency issued on the 26th October, 1962, ceases to operate, and shall thereafter deal with the same in such manner as the Central Government may direct.

4. Powers of Custodian in respect of enemy property vesting in him.—(1) Whenever by order made under sub-rule (1) of rule 133-V of the Defence of India Rules, 1962, the property of an enemy is vested in the Custodian, the Custodian may take, or authorise the taking of, such measures as he considers necessary or expedient for preserving the property, and, where the property belongs to an individual enemy subject, may incur such expenditure out of the property as he considers necessary or expedient for the maintenance of that individual or of his family in India.

(2) Without prejudice to the generality of the foregoing provision, the Custodian, or such person as may be specially authorised by him in this behalf, may, for the said purpose,—

- (i) carry on the business of the enemy,
- (ii) take action for recovering any money due to the enemy,
- (iii) make any contracts, and execute any documents in the name and on behalf of the enemy,
- (iv) institute, defend or continue any suit or other legal proceeding, refer any dispute to arbitration and compromise any debts, claims or liabilities,
- (v) raise on the security of the property such loans as may be necessary,
- (vi) incur any expenditure, including the payment of any taxes, duties, cesses and rates to Government or to any local authority, and of any wages, salaries, pensions or provident fund contributions to, or in respect of, any employee of the enemy, and the repayment of any debts due by the enemy to persons other than enemies,
- (vii) transfer by way of sale, mortgage or lease, or otherwise dispose of, any of the property, and
- (viii) invest any monies held by him on behalf of enemies in the purchase Treasury Bills or such other Government securities as may be approved by the Central Government for the purpose.

(3) In respect of the property of a person who is a citizen of India and an enemy within the meaning of clause (b) of rule 133-A of the Defence of India Rules, 1962, the Custodian shall have, in addition to the powers mentioned in sub-paragraph (2), the following powers, namely:—

- (i) the power to make payments to such person and to his dependents;
- (ii) the power to make payments on behalf of such person to persons other than those who are enemies under rule 133-A of the Defence of India Rules, 1962, of dues outstanding on the date on which such person became an enemy, and
- (iii) generally to make such other payments out of the funds of such person as may be directed by the Central Government.

(4) In respect of the property which belonged to an internee or a person on parole who had died in India, the Custodian shall have, in addition to the powers mentioned in sub-paragraphs (1) and (2), the following powers, namely:—

- (i) the power to make re-payment of any debts due by the deceased to any authority or person in the internment camp or the parole centre;

- (ii) the power to meet the cost of the funeral of the deceased; and
- (iii) the power to make such other payments out of the funds of the deceased as may be directed by the Central Government.

5. Exemption from attachment, etc.—All enemy property vesting in the Custodian shall be exempt from attachment, seizure or sale in execution of a civil court decree or orders of any other authority.

6. Transfer of securities belonging to an enemy.—(1) Where in exercise of the powers conferred by paragraph 4 of this Order, the Custodian proposes to sell any securities issued by a company and belonging to an enemy, the company may, with the consent of the Custodian, purchase the securities, notwithstanding anything to the contrary in any law or in any regulations of the company, and any securities so purchased may be re-issued by the company as and when it thinks fit so to do.

(2) Where the Custodian executes a transfer of any securities issued by a company, the company shall, on receipt of the transfer and an order in this behalf from the Custodian, register the securities in the name of the transferee, notwithstanding that the regulations of the company do not permit such registration in the absence of the certificate script or other evidence of title relating to the securities transferred:

Provided that any such registration shall be without prejudice to any lien or charge in favour of the company and to any other lien or charge of which the Custodian gives express notice to the company.

7. Power of Custodian to summon persons and call for documents.—(1) A Custodian may by notice in writing, require any person whom he believes to be capable of giving information concerning any enemy property to attend before him at such time and place as may be specified in the notice, and examine any such person concerning the same, reduce his statement to writing and require him to sign it.

(2) A Custodian may, by notice in writing, require any person whom he believes to have in his possession or control any account book, letter-book, invoice receipt or other document of whatever nature relating to any enemy property, to produce the same or cause the same to be produced, before the Custodian at such time and place as may be specified in the notice, and to submit the same to his examination and to allow copies of any entry therein or any part thereof to be taken by him.

8. Returns relating to enemy property.—(1) Every bank carrying on business in India which has any balances or deposits standing to the credit of an enemy shall, within two months of the vesting of his property, communicate to the Custodian in Form A full particulars of such balances or deposits, and may, within two months of such communication, communicate to the Custodian in Form AA full particulars of the debts, if any, owing to it by that enemy.

NOTE.—Claims submitted later will not be considered unless there are exceptional and valid reasons for the delay.

(2) Every company incorporated in India, and every company which though not incorporated in India has a share transfer or share registration office in India, shall, within two months of the vesting of the property of an enemy holding securities of the company, communicate to the Custodian in Form B full particulars of all securities of the company held by such enemy.

(3) Every firm carrying on business in India, one or more partners of which are enemies, shall, within two months of the vesting of their property and thereafter at such intervals as may be prescribed by the Custodian, communicate to the Custodian in Form C full particulars as to any share of profits and interest due to such enemies.

(4) Every person residing or carrying on business in India by whom any money would, but for the provisions of Part XIV-B of the Defence of India Rules, 1962, have been payable or paid to or for the benefit of an enemy by way of dividend, interest or share of profits shall, within two months of the vesting of his property, or if such money becomes payable after that period, within one month after it becomes payable, communicate to the Custodian in Form D full particulars of such money.

(5) Every person, other than a bank residing or carrying on business in India who owes any debt to an enemy shall, within two months of the vesting of his property, communicate to the Custodian in Form E full particulars of such debts.

(6) Every person residing or carrying on business in India who has in his possession or control any property belonging to, or held by or managed on behalf of an enemy subject (who is also an enemy firm) detained in an internment camp or restricted to a parole centre in India, and not covered by the preceding sub-paragraphs shall, within two months of the vesting of the property, or if the vested property comes into his possession or control after the expiry of that period, within one month of his so coming into possession or control, communicate to the Custodian full particulars of such property in Form F, in the case of property held in safe custody, and in Form G, in the case of property held otherwise.

(7) Where a return of enemy property has been made in any quarter to the Custodian in Form F or Form G, particulars of any income derived from such property during that and each subsequent quarter shall be communicated to the Custodian in Form H within one month of the expiry of the quarter; and if in any quarter no income has been derived, the fact shall be reported to the Custodian in the same form within the said period.

(8) Where a return of any enemy property has been made to the Custodian in Form F any change in respect of any lien on the property claimed by any person making the return shall be reported to the Custodian in the same form within one month after the change has occurred or has been effected.

(9) Notwithstanding the provisions contained in the preceding sub-paragraphs, the Custodian may, if he thinks fit,—

- (a) exempt any person or class of persons from making the returns mentioned therein, and
- (b) extend in any particular case or class of cases the time limit laid down for the submission of such returns.

(10) The provisions of sub-paragraphs (1) to (5) and (9) and of paragraph (9) shall apply to and in relation to the property (other than property which, after having been vested in the Custodian, has ceased so to vest by virtue of an order of the Central Government) of any person or body of persons declared under clause (g) of rule 133-A of the Defence of India Rules, 1962, to be an enemy, as if for all references in the said provisions to the date of vesting of property in the Custodian there were substituted references to the 21st December, 1962 or to the date of the relevant declaration, whichever is later.

9. Responsibility for making returns on behalf of companies and firms.—Every director, managing agent, manager and secretary of a company and every partner of a firm, shall be responsible for communicating to the Custodian the particulars prescribed in paragraph 8.

10. Registers of returns.—(1) All returns relating to enemy property submitted to the Custodian in pursuance of paragraph 8 shall be recorded in such registers as may be prescribed by the Custodian.

(2) All such registers shall be open to inspection, subject to the payment of a fee of Rupee one per page or part of a page of any register inspected and to such reasonable restrictions as the Custodian may impose, by any person, who in the opinion of the Custodian, is interested in any particular enemy property as a creditor or otherwise, and any such person may also obtain a copy of the relevant portion from the registers on payment of a fee of Rupee one per page or part of a page.

11. Fees for custody.—(1) There shall be levied by the Custodian fees equal to two per centum of—

- (a) the amount of monies paid to him;
- (b) the proceeds of the sale or transfer of any property which is vested in him or of which the right of transfer is vested in him; and

(c) the value of the residual property, if any, at the time of its transfer to the original owner:

Provided that in the case of an enemy whose property is allowed by the Custodian to be managed by some person specially authorised in that behalf, there shall be levied a fee of two per centum of the gross income of the enemy or such less fee as may be specifically fixed by the Central Government after taking into consideration the cost of direct management, incurred by Government, the cost of superior supervision, and any risks that may be incurred by Government in respect of the management:

Provided further that the Custodian may with the sanction of the Central Government reduce or remit the fees leviable under this paragraph in any special case or class of cases.

(2) The value of any property for the purpose of assessing the fees shall be the price which, in the opinion of the Central Government or of an authority empowered in this behalf by the Central Government, such property would fetch if sold in the open market.

(3) The fees in respect of any property may be levied out of any proceeds of the sale or transfer thereof, or out of any income accrued therefrom, or out of any other property belonging to the same enemy and vesting in the Custodian.

(4) The fees levied under this paragraph shall be credited to the Central Government.

FORM A

To
THE CUSTODIAN OF ENEMY
PROPERTY

Ref. No. A.
From
Address
.....
.....Date.....

Return showing particulars of balances or deposits standing to the credit of an enemy.

N.B. — Where not known, the contents of sealed boxes, packages, etc., deposited need not be ascertained.

Name of enemy	Address	Balances	Cash deposits	Description and Estimated Value (if known) of deposits other than cash deposits

Rs. nP.

TOTAL Rs.

FORM AA

To

THE CUSTODIAN OF ENEMY PROPERTY,
BOMBAY.

PART I

Refunds claimed against enemy debts already paid into Custodian's account.

References		Date of deposit and name of Enemy	Account of deposit	Withdrawals claimed	Remarks re. nature of the claim
Banks' letters	Custodian's letters				
1	2	3	4	5	6
			Rs.	Rs.	Rs.

TOTAL CLAIMS.....

PART II

Payments now to be made to Custodian.

References			Amount of Bank's claims	Net payment to Custodian	Remarks	
Bank's letters	Custodian's letters	Gross collections			Details of collection in Column 3	Details of claims in column 4
1	2	3	4	5	6	7
			Rs.	Rs.		Rs.

TOTAL PAYMENT.....

PART III

Rs.

Total claims, part I	.	.	.	.	.	.	.	.	.
Total payments, part II	.	.	.	.	.	.	.	.	.
Net amount due to/by Custodian	.	.	.	.	.	.	.	.	.

I certify that I have verified that the amounts claimed above are due from the particular enemy against whose assets they are now being claimed and that the above statement is to be the best of my knowledge correct.

Manager.

FORM B

Ref. No. B

From

Address.....

Date

To
THE CUSTODIAN OF ENEMY
PROPERTY

Return showing particulars of all securities of a company belonging to an enemy.

Name of Enemy	Address	Description of Securities	Value
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Rs. nP.[†]

TOTAL Rs.

FORM C

Ref. No. C.

From

Address

Date

To
THE CUSTODIAN OF ENEMY
PROPERTY,

Return showing particulars as to any share of profits and interest due to an enemy.

Name of enemy	Address	Where a company makes the return		Where a partner makes the return		
		Description of Shares, stock, Debentures or Debentures Stock held by an enemy	Nominal value of each holding	Enemy capital	Interest or share of profits due to an enemy	Period covered by interest or share of profits

Rs. nP. Rs. nP. Rs. nP. Rs. nP.

FORM D

To

THE CUSTODIAN OF ENEMY
PROPERTY

Ref. No. D.

From

Address

Date.

Return showing particulars of any money which would have been payable or paid to or for the benefit of enemy by way of dividend, interest or share of profits.

Name of enemy	Address	Description	Value
			Rs. nP.

TOTAL Rs.

FORM E

To

THE CUSTODIAN OF ENEMY
PROPERTY,

Ref. No. E.

From

Address

Date.

Return showing particulars of Debts due to an enemy.

Name of enemy	Address	Description of Property (Each item to be stated separately.)	
		Nature of Debt.	Amount.

Rs. nP.

FORM F

To THE CUSTODIAN OF ENEMY PROPERTY,
 Ref. No. F.....
 From
 Address
 Nature of lien claimed (if any)

Return showing particulars of enemy property in possession not already recorded with the Custodian.

N. B.—This form should be used in respect of enemy property held in safe custody.

(EACH ITEM TO BE STATED SEPARATELY)

Full name of person or whom held (surname first).	Full address of person for whom held.	IMMOVEABLE PROPERTY		MOVEABLE PROPERTY	
		Full description of any Landed Property held in respect of which Income has been received.	Amount of Income received therefrom.	Full description of any moveable property held in respect of which Income has been received.	Amount of Income received therefrom.

Rs. nP.

Rs. nP.

TOTAL Rs.

FORM G.

To

THE CUSTODIAN OF ENEMY
PROPERTY,

Ref. No. G.....

From.....

Address

N.B.—This form should be used in respect of property held otherwise than in safe custody.

(EACH ITEM TO BE STATED SEPARATELY)

		IMMOVEABLE PROPERTY		MOVEABLE PROPERTY	
Full name of person for whom held (surname first).	Full address of person for whom held.				
		Full descrip- tion of any landed property held in respect of which Income has been received.	Amount of Income received therefrom.	Full descrip- tion of any moveable property held in respect of which Income has been received.	Amount of Income received therefrom.
			Rs. nP.		Rs. nP.

TOTAL Rs. .

FORM H

QUARTERLY RETURN OF INCOME

To

THE CUSTODIAN OF ENEMY
PROPERTY,

Ref. No. H.

From

Address

Nature of lien claimed (if any)

Date

Return showing particulars of Income received from property already recorded with the Custodian and held for or on behalf of or in trust for enemies.

N. B.—(1) If no income has been received since date of previous return, the fact should be recorded and the order returned to the Custodian.

(2) The amount of any lien on the income recorded, or on the property from which it is derived, should be notified if this has not already been done.

(EACH ITEM TO BE STATED SEPARATELY)

Full name of person for whom held (surname first)	Full address of person for whom held.	IMMOVEABLE PROPERTY		MOVEABLE PROPERTY	
		Full description of any Landed Property held in respect of which Income has been received.	Amount of income received since the date of last return.	Full description of any moveable Property held in respect of which Income has been received.	Amount of Income received since the date of last return.
			Rs. nP.		Rs. nP.
TOTAL Rs.					

[No. 22/7/62-E.Pty.]

S. RANGANATHAN, Secy.

